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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,945	11/25/2003	Leonid Bravinski	92953-4	5884
22463	7590	08/14/2007	EXAMINER	
SMART AND BIGGAR 438 UNIVERSITY AVENUE SUITE 1500 BOX 111 TORONTO, ON M5G2K8 CANADA			SAFAVI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3637	
			MAIL DATE	DELIVERY MODE
			08/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/721,945	BRAVINSKI, LEONID	
	Examiner	Art Unit	
	M. Safavi	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25, 28-37, 39-56 and 62-81 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 9-20, 28, 29, 31-37, 39-56, 64, 65 and 71-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-25, 30, 62, 63, 66-70, 80, and 81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's election of the invention of Group VI, (concrete form), and the respective species of Fig. 4, (to spacer), Fig. 6, (to connector), and Fig. 12A, (to concrete form), in the reply filed on April 30, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-7, 9-20, 28, 29, 31-37, 39-56, 64, 65, 71-76, and 77-79 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species of invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 30, 2007.

It has been noted that Applicants' response references a claim 83 when no claim 83 appears pending. Further, Applicant has indicated claims 1-7, 9, 10, 12, 19, 28, 29, 71 and 72 as reading upon the elected species of Fig. 4 spacer. However, each of claims 1 and 12 calls for end portions of the first and second rod members to be oriented in a direction orthogonal to both a direction of extent of the rod members and a direction transverse to the extent of the rod members which is not shown by the Fig. 4 embodiment. Claim 28 calls for a cutting element positioned beneath an undersurface of the connector cap portion, which is shown by the non-elected Fig. 5 connector. And, claim 71 calls for a spacer formed by a rod member, a reinforcement bar member and a transverse rod member, which is shown, by the non-elected Fig. 5 spacer. Therefore, claims 1-7, 9, 10, 12, 19, 28, 29, 71, and 72 are being withdrawn from further

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consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species of invention.

Information Disclosure Statement

The information disclosure statement filed October 20, 2004 fails to fully comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because a date of publication has not been provided for the document listed as "GRK Brochure". It has been placed in the application file, but the information referred to therein, with respect to the "GRK Brochure", has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

The disclosure is objected to because of the following informalities: the recitation at line 15 on page 25 of the specification, (line 3 of paragraph [0096]), appears incomplete. Otherwise, with what is the end portion of the transverse rod aligned?

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-25, 28-30, 62, 63, 66-72, 80, and 81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 62, lines 6-7, "said transverse rod member" lacks antecedent basis within the claim. It is therefore, not clear as to what "said transverse rod member" defines or whether it forms part of the claimed invention. Line 10, it is not clear as to what is being defined by "a first connector associated with said first panel member". Particularly, it is not clear as to what is being defined by "associated with..."?

Claim 28, line 2, "said second connector" lacks antecedent basis within the claim. It is therefore, not clear as to what "said second connector" defines or whether it forms part of the claimed invention. Lines 2-3, it is not clear as to what is being defined by "a second connector associated with said second panel member". Particularly, it is not clear as to what is being defined by "associated with..."?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 62, 63, 66, 67, 68, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boeshart '592 in view of Harkenrider et al. '126.

Boeshart '592 discloses a form panel arrangement with a pair of spaced apart longitudinally oriented foamed plastic panels 34 defining a form space therebetween; a spacer 12 comprising at least one transverse tie rod member 18 secured to and extending between said first and second panels, said transverse rod member having a first end and an opposite second end each being adapted for securing said transverse tie rod to a panel connector member 14, at least one of said panel connectors being releasable from said tie rod; and wherein said at least one connector can be released and said connector and said first panel removed. Boeshart '592 does not appear to disclose "wherein said first panel member has at least one inner surface treated with a material having enhanced non-adhesive properties, such that the inner surface will tend not to bond extensively to said hardening or hardened concrete".

However, Harkenrider et al. '126 teaches utilization of a plastic film upon the face of the concrete form to provide a relatively non-stick surface. Therefore, to have provided either of the Boeshart form panels 34 with a plastic film upon the face of the concrete form to provide a relatively non-stick surface would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Harkenrider et al. '126. To have further provided a plastic film along both sides of either Boeshart form panel 34, thus serving to encase the panel in a protective layer as well as allow for interchangeability between sides of each form panel, would have constituted an obvious to one having ordinary skill in the art at the time the invention was made.

Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boeshart '592 in view of Harkenrider et al. '126 as applied to claims 62, 63, 66, 67, 68, and 70 above, and further in view of either of Scott et al. '051 and Fleck '355.


To have formed the plastic film of the modified Boeshart '592 assembly of a polypropylene would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Scott et al. '051, (col. 4, lines 50-60), and Fleck '355, (col. 3, lines 25-31).

Claims 21-25, 30, 80, and 81 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

M. Safavi
July 09, 2007



MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 3637